IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

CRL.A.No. 1590 of 2007()

CC.91/1998 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, ATTINGAL

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APPELLANT:

STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI THOMAS JOHN

RESPONDENTS: ACCUSED NOS.5,10,12,13,14,15,18:

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1. MURALI,S/O.SREENIVASAN,BEENA MANDIRAM,
KODALIVILA,PATTLA,MEVERKKAL DESOM,ALANKODE VILLAGE

2. LAIJU @ SURIYAN,S/O.CHANDRAN,
KAIKKARAVILA VEEDU,MEVERKKAL DESOM,ALANKODE
VILLAGE.

3. BABU,S/O.KESAVAN,KUZHIVILA VEEDU,
MEVERKKAL DESOM,ALANKODE VILLAGE.

4. VINAYAK,S/O.SUKUMARAN,
KAIKKARAVILA VILLAGE,MEVERKKAL DESOM,
ALANKODE VILLAGE.

5. BINU,S/O.BHASKARAN,ANU BHAVAN,
MEVERKKAL DESOM,ALANKODE VILLAGE.

6. REVI @ GANDU S/O.SANKARAN,
THEKKAKUNNEL VEEDU,MEVERKKAL DESOM,
ALANKODE VILLAGE.

7. SUNIL KUMAR @ UMMANI,S/O.MURALI,
KIZHAKKETHIL VEEDU,MEVERKKAL DESOM,
ALANKODE VILLAGE.

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON 10/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. Thankappan, J.

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Crl.A. No. 1590 of 2007

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Dated this the 10th day of September, 2007

JUDGMENT

The appeal is filed by the complainant against the judgment in C.C.No.91/98 on the file of the Court of the Judicial First Class Magistrate-I, Attingal. The above complaint was filed against accused Nos.1 to 18 under sections 143, 147, 149, 447 and 427 IPC on the allegation that on 6-7-1997 at about 9 P.M. the accused formed themselves into an unlawful assembly and trespassed into the properties possessed by PWs.1 and 3 and using spade, cutter sword, chopper and tilling implement cut open a new way after cutting and removing several trees standing in the said properties and there by cause a loss of about Rs.1,50,000/- to PW1 . To prove the case against the accused, PWs.1 to 6 were examined and Exts.P1 to P11 were marked. After closing the prosecution evidence, the accused were questioned under section 313 Cr.P.C. They denied the allegation levelled against them. On the side of the defence DWs.1 and 2 were examined and Exts.D1 and D2 were marked. After considering the

entire evidence the trial court found that accused Nos.2 and 5 to 18 were guilty under sections 143, 147, 149, 447 and 427 IPC and they were convicted thereunder. The case against accused 1, 3 and 4 was split up, as they were absconding. Aggrieved by the conviction and sentence awarded against the appellants, they preferred Crl.A.No.172/2001 before the Sessions Court and the Sessions Court after considering the entire evidence remitted back the case to the trial court. The trial court re-considering the matter found that the prosecution had failed to prove the charge levelled against the appellants beyond reasonable doubt . Hence, they were found not guilty and they were acquitted under section 255(1) Cr.P.C.

2. The trial court mainly considered the evidence of PWs.1 to 3 who are alleged to be the occurrence witness to the incident. The trial court after considering their evidence found that they had not supported the prosecution case. There is no evidence to prove the identity of the persons who committed the offence. The trial court on appreciating the evidence found that even prior to the commission of mischief in the property, there was an existing road maintained by the Panchayat. The trial court also found that the prosecution had not succeeded in proving the accusations levelled against the accused beyond reasonable doubt. On an overall consideration of the entire evidence, this Court finds that there is no

compelling circumstances to interfere with the impugned judgment.

3. Considering all the facts and circumstances of the case, this Court is of the view that the judgment of the trial court is on evidence and it requires no interference by this Court. Hence, the appeal is dismissed confirming the judgment of the trial court.

K. Thankappan,
Judge.

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